

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

HAL LUFTIG COMPANY, INC.,

Debtor.
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Chapter 11 (Subchapter V)

Case No. 22-11617 (JPM)

**DECLARATION OF SHERYL P. GIUGLIANO
REGARDING SOLICITATION OF VOTES AND TABULATION
OF BALLOTS ACCEPTING AND REJECTING DEBTOR'S SMALL BUSINESS
PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

I, Sheryl P. Giugliano, duly affirm under penalty of perjury that the following is true and correct:

1. I am a partner of Ruskin Moscou Faltischek, PC (“**RMF**”) with offices located at East Tower, 15th Floor, 1425 RXR Plaza, Uniondale, New York 11556. I am over the age of eighteen years and not a party to the above-captioned action. Unless otherwise noted, I have personal knowledge of the facts set forth herein.

2. I submit this declaration (the “**Declaration**”) with respect to the solicitation of votes and the tabulation of ballots cast on the Debtor’s *Small Business Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* (ECF Doc. No. 55) (the “**Plan**”).¹ Except as otherwise noted, all facts set forth herein are based on my personal knowledge, knowledge that I acquired from individuals under my supervision, and my review of the relevant documents. I am authorized to submit this declaration on behalf of RMF, as counsel to the Debtor.

Service and Transmittal of Solicitation Packages

3. On April 19, 2023, the Court entered the *Order Scheduling (I) Hearing to Consider Confirmation of Debtor’s Chapter 11 Plan, (II) Deadline for Submission of Ballots, and (III)*

¹ All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Plan.

Deadline for Filing Objections to Plan (ECF Doc. No. 67) (the “**Confirmation Hearing Order**”) which scheduled the Confirmation Hearing for May 24, 2023, the Voting Record Date as May 10, 2023, the Voting Deadline as May 17, 2023, and the Objection Deadline as May 17, 2023.

4. The procedures adhered to by RMF for the solicitation and tabulation of votes are consistent with those outlined in the Plan, the *Notice of Presentment of Debtor’s Proposed Scheduling Order: (I) For the Plan Confirmation Hearing; (II) Setting an Objection Deadline for the Plan; (III) Approving Form of Notice Regarding the Hearing on Plan Confirmation; (IV) Approving Forms of Ballot; and (V) Setting a Voting Deadline to Accept or Reject the Plan* (ECF Doc. No. 64) and the ballots distributed to parties entitled to vote on the Plan (collectively, the “**Solicitation Procedures**”). I supervised the solicitation and tabulation performed by RMF.

5. Consistent with the Plan and the Solicitation Procedures, only Holders of Allowed Claims in Class 3 (FCP Claim) and Class 4 (General Unsecured Claims) were entitled to vote to accept or reject the Plan (together, the “**Voting Classes**”). No other classes under the Plan were entitled to vote on the Plan.

6. In accordance with the Solicitation Procedures, RMF and the Debtor identified holders entitled to vote in the Voting Classes, and coordinated the distribution of solicitation materials to the holders entitled to vote in the Voting Classes. RMF and the Debtor relied upon the following information to identify and solicit Holders of Allowed Claims in the Voting Classes: (a) official claims register maintained by the Court; and (b) the Debtor’s Schedules of Assets and Liabilities (ECF Doc. No. 23). Ballots were mailed to any party determined to be in the Voting Classes (together with the Confirmation Hearing Order, *Notice of Filing of Plan Supplement* with Exhibits (ECF Doc. No. 63), and the *Notice of Hearing to Consider Confirmation of Debtor’s Small Business Chapter 11 Plan of Reorganization* (ECF Doc. No. 68) the “**Solicitation**

Package”).

7. On April 20, 2023, as set forth in the *Affidavit of Service* (ECF Doc. No. 69) filed April 21, 2023, RMF served the Solicitation Packages on Holders of Allowed Claims entitled to vote on the Plan.

Tabulation Process

8. In accordance with the Solicitation Procedures, RMF reviewed, determined the validity of, and tabulated the ballots submitted to vote on the Plan. Ballots returned by U.S. priority mail express and overnight delivery were received by RMF. Ballots received by RMF were processed in accordance with the Solicitation Procedures.

9. To be included in the tabulation results as valid, a ballot must have been: (a) properly completed pursuant to the Solicitation Procedures, (b) executed by the relevant holder entitled to vote on the Plan (or such holder’s authorized representative), (c) returned to RMF via an approved method of delivery set forth in the Solicitation Procedures, and (d) received by RMF by the Voting Deadline (collectively, the “**Valid Ballots**”).

10. All Valid Ballots cast by holders entitled to vote in the Voting Classes were tabulated pursuant to the Solicitation Procedures.

11. RMF is in possession of all ballots received, and copies are available for review.

Voting Results

12. The results of the tabulation of Valid Ballots received are set forth below.

Class	Total Ballots Received			
	Accept		Reject	
	Amount (% of Amount voted)	Number (% of Number voted)	Amount (% of Amount Voted)	Number (% of Number voted)
Class 3 (FCP Claim)	N/A	N/A	\$2,862,776.00 (100%)	1 (100%)

Class 4 (General Unsecured Creditors)	\$112,750.00 (99%)	2 ²	\$0.00	0

13. No ballots received were excluded from the final tabulation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 6, 2023
Uniondale, New York

/s Sheryl P. Giugliano
Sheryl P. Giugliano,
Attorneys for Debtor in Possession

² The two (2) Holders of Allowed Claims in Class 4 that voted to accept the Plan are: (a) Kevin Connor, Voting Amount \$37,750, received June 30, 2023; and (b) Amy B. Deutsch, Voting Amount \$75,000, received July 5, 2023